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**MEETING MINUTES**  
**WATER POLLUTION CONTROL ADVISORY COUNCIL**  
**Wednesday, December 4, 2013**  
**10:00 AM – 11:00 AM**  
**Metcalf Building, Room 242**  
**1520 E. Sixth Ave, Helena, MT**

**PRESENT**

*Council Members Present:*

*Mack Cole (by phone)*

*Stevie Neuman (by phone)*

*Earl Salley (by phone)*

*Karen Bucklin Sanchez (by phone)*

*Trevor Selch (by phone)*

*Keith Smith (by phone)*

*Michael Wendland (by phone)*

*Council Members Absent:*

*Brenda Hall*

*Mitchell Leu*

*Dude Tyler*

*Montana Department of Environmental Quality Staff Members:*

*Sarah Norman*

*Amy Steinmetz*

*Michael Suplee (by phone)*

*Eric Urban*

*Public:*

*Guy Alsentzer (by phone)*

*Bill Mercer (by phone)*

**CALL TO ORDER**

Chairperson Trevor Selch called the meeting to order at 10:03 a.m.

**APPROVAL OF AGENDA**

Ms. Karen Bucklin Sanchez asked to add introductions to the agenda. Mr. Mack Cole then introduced himself as a new council member of WPCAC (Water Pollution Control Advisory Council). He will be representing Irrigated Agriculture. Mr. Michael Wendland moved to approve the December 4, 2013 agenda; Ms. Stevie Neuman seconded the motion. There was no opposition to the motion; the motion carried.

**APPROVAL OF MINUTES**

Ms. Neuman moved to approve the November 8, 2013 meeting minutes as written; Chairperson Selch seconded the motion. There was no opposition to the motion; the motion carried.

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## **ACTION ITEMS**

### **Numeric Nutrient Standards Subchapter 5 Rule Changes -**

Mr. Michael Suplee explained that the document is largely the same as what was handed out at the November 8, 2013 meeting. The most significant change to Subchapter 5 from the legal review is that, in the definition section, there is no longer a non-severability clause or mention of “incorporation by reference of DEQ-12.” The reason for these changes is that Department of Environmental Quality (DEQ) legal staff felt that, because DEQ-12 is incorporated by reference officially in Administrative Rules of Montana (ARM) 17.30.619, it was redundant to have this again in Subchapter 5. As the non-severability clause was also associated with this incorporation, it too was removed from Subchapter 5.

Mr. Suplee pointed out some minor word-use modifications made by DEQ legal staff.

In ARM 17.30.516, Mr. Suplee explained new bullet (e). This amendment states that facilities that discharge the parameters found in DEQ-12 to surface water will be operating under the 14Q5 low flow, and they can use the entire flow for mixing calculations. This simplifies the calculations for determining a mixing zone. The permit writer will determine the 14Q5 low flow, calculate the discharge volume and concentrations, and then simply do the math to determine the mixing zone. Legal did not propose any substantive changes to this amendment.

DEQ’s Legal and Permitting staff have both reviewed this package. In response to a question by Mr. Keith Smith, Mr. Suplee clarified that this Subchapter 5 Rule change only pertains to nutrients and will not change any other mixing zone parameters, and that it has been presented to the Nutrient Work Group.

Mr. Bill Mercer stated that while Subchapter 5 has been introduced to the Nutrient Work Group, they have not yet taken a position on it.

In response to Mr. Mercer’s comment, Mr. Suplee stated that it is true that the seasonal 14Q5 low flow has not been discussed specific to Subchapter 5, but has been discussed often by the Nutrient Work Group. The group is supportive of the concept, and some of the members consider it necessary.

In response to a question by Mr. Cole, Mr. Suplee clarified that irrigation is a non-point source activity and does not require a permit, and therefore is not affected by this rule.

Mr. Cole made a motion to accept the changes to the Subchapter 5 Rule Package; Chairperson Selch seconded the motion. Further discussion ensued.

Ms. Bucklin Sanchez asked whether there would be any benefit to waiting to hear Nutrient Work Group comments before accepting the changes. Mr. Suplee responded that while the Nutrient Work Group has not had time to mull over the details of the changes, the concept that the changes represent is not new. He stated that in Nutrient Work Group discussions, the 14Q5 low flow was requested for dilution for permitted discharges. This request has been reflected in the Subchapter 5 changes and he does not believe that the group will be opposed to the changes.

Mr. Bill Mercer said that he thought it would be relevant to discuss the expected role of the Nutrient Work Group, with regard to the Rule Package, from now until the Rule Package goes to the Board of Environmental Review (BER). Mr. Suplee answered that as of December 17, the entire final Numeric

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Nutrient Standards Rule Package, which includes the Subchapter 5 changes, Circular DEQ-12, and the Guidance Document, will be posted on the Nutrient Work Group website. At this point, the Nutrient Work Group members will have approximately six weeks to review these materials and provide feedback. Assuming that there are no substantial objections to the Nutrient Rule Package, it will move on to BER on January 21, 2014. If, however, there are significant concerns about the Nutrient Rule Package, another meeting will be convened between the dates of December 17 and January 21.

In response to a question from Mr. Smith, Mr. Suplee clarified that the rule change applies to those cases where, because the water quality in the river is good, there is dilution available and facilities in the area can meet the criteria at the end of their mixing zone. This does not apply to end-of-pipe numbers where variances have been granted.

Ms. Sanchez asked again if there would be any negative impacts if WPCAC delays taking action. Ms. Amy Steinmetz stated that Mr. Suplee would like WPCAC comments and advice for DEQ to be incorporated by the time the Rule Package is posted for the Nutrient Work Group on December 17. Mr. Suplee added that this would allow the Nutrient Work Group to view the Rule Package with the knowledge that WPCAC has already seen this final version.

Chairperson Selch asked how suggestions and concerns from Nutrient Work Group members will be addressed. Mr. Suplee answered that he is fairly confident that most substantive issues have already been addressed. He anticipates that the Nutrient Work Group is reasonably satisfied with the Rule Package overall. If significant concerns arise, however, Mr. Suplee expects the department will probably return to the drawing board to fix those issues. This would result in dates being pushed back. If this happened, the Rule Package would likely look substantively different and, consequently, the new version would need to be passed through WPCAC before going to BER.

Mr. Mercer, representing the Montana Petroleum Association, stated that only some of their concerns have been addressed. He said that how the discussions go between now and December 17, will be significant in terms of the position that they will take. Mr. Mercer noted though that they have not had objections that are specific to the amended rule that Mr. Suplee is discussing today.

There were no public comments on the motion.

Chairperson Selch brought up the motion to accept the changes to the Nutrient Standards Subchapter 5 Rules. All present WPCAC members voted in favor of the motion. There was no opposition to the motion; the motion carried.

#### **BRIEFING ITEMS**

##### **Public Comment -**

There were no public comments.

##### **Agenda Items and Location for Next Meeting –**

Ms. Steinmetz said that the next meeting will include discussion of the New World Mine temporary standards, a vote on the 2014 WPCAC calendar, and presentations by both John North and John Arrigo. John North will discuss WPCAC's role and DEQ's obligation to bring items to WPCAC. John Arrigo will discuss enforcement roles. This meeting will be held on December 17 at Fish, Wildlife and Parks, which is located at 1420 East Sixth Avenue, Helena, MT. A conference call line will also be available for those people who cannot attend the meeting in person.

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**ADJOURNMENT**

Chairperson Selch made a motion to adjourn the meeting. Mr. Salley moved to adjourn and Ms. Bucklin Sanchez seconded the motion. All were in favor; the meeting adjourned at 10:42 a.m.

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**REFERENCED LINKS FOR MEETING MATERIALS**

(Sites last updated 12/4/2013)

**December 4, 2013 Agenda -**

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2013/December4/AGENDA12-4-13.pdf>

**Agenda Links:**

Approved Minutes from November 8, 2013 –

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2013/Nov8/11-8-13ApprovedMinutes.pdf>

Numeric Nutrient Standards Subchapter 5 Rule Changes –

<http://deq.mt.gov/wqinfo/WPCAC/agendasMinutes/2013/December4/Title30SC5rulesdrft.pdf>

Submitted by,  
Sarah Norman 12/5/2013